

VIRGINIA:

FILED
CRIMINAL

03 JUL 21 PM 2: 28
IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

COMMONWEALTH OF VIRGINIA,

JORITT FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

v.

CRIMINAL NO. 102888
Hon. Jane Marum Roush

LEE BOYD MALVO,

Defendant

**MOTION TO REQUIRE THE COMMONWEALTH TO PROVIDE
AN ACCOUNTING OF ALL EXPENDITURES AND COMMITMENT
FOR EXPENDITURES MADE FOR INVESTIGATION AND TRIAL
PREPARATION BY ALL STATE AND FEDERAL AGENCIES
PARTICIPATING IN THIS PROSECUTION INCLUDING
THE DEPARTMENT OF JUSTICE**

COMES NOW the defendant, Lee Boyd Malvo, by his co-counsels, pursuant to the Fifth and Fourteenth Amendments to the Constitution of the United States and Article I, Section 8 of the Constitution of Virginia and states as follows:

1. The defendant is indigent. He is being defended under the Commonwealth of Virginia provisions for appointed counsel. The Court is limited by provisions of Virginia law as to what experts and specialists can be funded. The Court is required to try to balance the realities of Virginia budgetary constraints with the necessity to provide a fair trial and appropriate defense.
2. The defendant is aware that the prosecution has received funds and funded support from the United States Government.
3. The prosecution's investigation of the case since the arrest and detention of Lee Malvo has continued to have the benefit of involvement of multiple federal law enforcement agencies, and funding from federal sources.

4. Those federal sources are believed to include the United States Department of Justice, the FBI, and ATF.

5. On July 17, 2003 the Washington Post reported that prosecutors in the case of the co-defendant to Lee Malvo “already have applied for a \$200,000 federal grant to cover trial expenses, and they said the move to Virginia Beach probably will cause expenses to skyrocket.” One of the Commonwealth’s Attorneys in that case is quoted as stating that prosecutors” could need as much as \$1.5 million to house, feed and transport witnesses for the trial.” It is believed the Fairfax prosecution has the same access to federal funding.

6. In effect the defendant is being prosecuted by both the federal government and the Commonwealth of Virginia.

7. Therefore, fundamental fairness and due process would require that the defendant be allowed access to federal funding for his defense, mental health experts, mitigation experts, and investigation expenses, and for the transportation, feeding and housing of his witnesses.

8. Use of federal funding would relieve the Virginia Treasurer and taxpayers from bearing exclusively the burden of the costs of this trial and defense.

9. In order to properly present a demand to the federal funding authority, it will be necessary to show the extent of funding and expenditures by both the Commonwealth and federal institutions and agencies.

WHEREFORE the defendant, Lee Malvo, by counsel, respectfully moves this honorable Court to order and direct the Commonwealth to provide an accounting of all expenditures and commitments for expenditures from the time of arrest of Lee Malvo through trial showing the use or anticipated use of those funds and the source of said funds, as to agency, governmental

institution, or other source by or before August 24, 2003.

Respectfully submitted,

LEE BOYD MALVO

By LS
Co-Counsel

and

By LS
Co-Counsel

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CERTIFICATE OF SERVICE

We/I hereby certify that a true copy of the foregoing Motion/Memorandum was mailed,
first class mail to:

Robert F. Horan, Jr., Esquire
Commonwealth's Attorney
4110 Chain Bridge Road
Room 123
Fairfax, VA 22030

and the original was forwarded for filing to:

Hon. John T. Frey
Clerk
Fairfax County Circuit Court
Fairfax County Judicial Center
4110 Chain Bridge Road
Fairfax, VA 22030-4009

and a true copy was forwarded to the

Hon. Jane Marum Roush
Judge
Fairfax County Circuit Court
Fairfax County Judicial Center
4110 Chain Bridge Road
Fairfax, VA 22030-4009

this 20th day of July, 2003.

LS/
Co-Counsel

LS/
Co-Counsel